

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

CHARLES WESTERBY,

Petitioner,

v.

DIRECTOR, TDCJ-CID,

Respondent.

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CIVIL ACTION NO. 5:24-CV-72-JRG-JBB

ORDER

Before the Court is Petitioner Charles Westerby's petition for writ of habeas corpus complaining of the failure of prison officials to release him on parole. Docket No. 1. The case was referred to United States Magistrate Judge Boone Baxter in accordance with 28 U.S.C. § 636. The Magistrate Judge issued a Report recommending dismissal of the petition with prejudice. Docket No. 5. According to the Magistrate Judge, Petitioner "has no constitutionally protected liberty interest in release on parole and so the fact that he was denied release despite having served the time required to become eligible does not set out a constitutional violation. In the absence of a liberty interest in release on parole, Petitioner's application for habeas corpus relief is without merit." *Id.* at 2.

Petitioner acknowledged receipt of the Report on June 3, 2024 (Docket No. 6) and moved for an extension of time to file any objections he might have to the Report. Docket No. 7. On July 8, 2024, the Court granted Petitioner's motion for extension, ordering that Petitioner shall have until August 12, 2024 in which to file any objections he might have to the Report. Docket No. 8. Petitioner acknowledged receipt of the July 8 Order on August 6, 2024. Docket No. 9. To date, no objections have been filed.

Because no objections have been received, Petitioner is barred from *de novo* review by the District Judge of the Magistrate Judge's proposed findings, conclusions and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *See Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017); *Arriaga v. Laxminarayan*, Case No. 4:21-CV-00203-RAS, 2021 WL 3287683, at *1 (E.D. Tex. July 31, 2021).


The Court has reviewed the pleadings in this case and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). Accordingly, it is

ORDERED that the Report of the Magistrate Judge (Docket No. 5) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-captioned petition for writ of habeas corpus is **DISMISSED WITH PREJUDICE**. A certificate of appealability is denied *sua sponte*.

So Ordered this

Aug 28, 2024



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE